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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BOYLE FREDRICKSON S.C. 840 North Plankinton Avenue MILWAUKEE, WI 53203		

EXAMINER	
ROBERTSON, DAVID	

ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
08/09/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary	Application No. 09/829,292	Applicant(s) DVORAK ET AL.	
	Examiner Dave Robertson	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a Final office action over pending claims 49-60.

Response to Amendment

2. Claims 1-48 are cancelled by amendment. Claims 53 and 59 are now independent with claims 49-52, 54-58 and 60 depending therefrom.
3. Applicant amends claims 53 and 59 to remove the dependency to cancelled claims 40 and 47, without incorporating all of the limitations of the parent claims. As such, claims 53 and 59, previously indicated as allowable if written in independent form, have been considerably broadened. After search and consideration on the claims as amended, the indication of allowability is withdrawn.

Response to Arguments

4. Applicant's has made no arguments other than to acknowledge amendments to claims 53 and 59.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 53, 54, 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glazier et al (US Pat. 7,174,303) in view of Garcia (US Pat. 6,088,429) and further in view of Family Practice Management (two articles: Sanford Brown, "The Disgruntled Patient", June 1999 and Ron Aymond, "22 Tips for Improving Your Practice", Sept. 1999).

Glazier discloses automated methods and a system for online patient scheduling for a medical practice. Garcia discloses automated methods and a system for monitoring patients' prescription regimens and reminding patients of appointments, including recording statistics on the patient's completed appointments. Family Practice Management reports and advises to doctors on the frustrations of patient no-shows in a medical practice.

Specifically, with respect to claims presented:

Claim 53

Glazier teaches an automated method of allowing patients to schedule appointments over a network (see Abstract) including communicating directly with the patient over the Internet (column 2, line 61); reviewing a record of the patient's completion of previous appointments (see column 3 from line 8: central controller maintains customer database including "past usage information" for scheduling, where at least with respect to determining a date for a periodic checkup, the recorded date of the last appointment is inherently reviewed to determine the subsequent data for the automatically scheduled follow-up); however, Glazier does not expressly teach *automatically scheduling the medical appointment only if the patient's completion of*

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previous appointments exceeds a predefined threshold and otherwise requiring the patient to schedule an appointment through a human intermediary.

Garcia discloses telephonic communication to medical patients to improve prescription compliance and appointment attendance and expressly teaches recording statistics on the patient's completed appointments (column 6 from line 1). Further motivating attention paid to no-shows is the old and well-known relationship between missed appointments and patient care as reported, for example, by Daley and Zuckoff ("Improving compliance with the initial outpatient session among discharged inpatient dual diagnosis clients," Social Work, 1998), where missed appointments can signal problems with ongoing outpatient psychiatric treatment.

On the financial costs of missed appointments, Family Practice Management teaches the "struggle with what to do about no shows" (May 13, 1999 entry) and the suggested practice of confirming appointments, particularly for new patients, "as no-shows are costly" (Aymond, Tip #8).

While Glazier does not teach recording statistics on completed appointments, Glazier does teach storing past system usage information (column 3, line 17) and giving the medical practice (the "sponsoring organization" in Glazier) the ability to deny an appointment for an individual patient (column 6 from line 49). Glazier also expressly teaches providing for human intervention in the off-line scheduling of patient appointments (see column 5 from line 28 and at line 50).

Thus, because chronic no-shows were known to result in the loss of revenue for a medical practice and to signal potential patient care issues, it would have been

obvious to one of ordinary skill in the art at the time of the invention to record the number of completed visits (as in Garcia) and to deny an appointment for an individual patient (as in Glazier, column 6 from line 49), while still providing for human intervention in the scheduling of individual patient appointments (as enabled by Glazier: see column 5 from line 28 and at line 50; and as motivated by patient care issues as in the art), as this would have minimized the number of no-shows in a medical practice by denying self-scheduling of patients having a history of no-shows, thereby improving practice revenues, while providing the human intervention necessary to catch a potentially critical patient care issue as signaled by a missed appointment, improving both patient care and the medical practice's bottom line profitability.

Claim 54

Glazier teaches including where the medical appointment is scheduled in a database providing an integrated medical record (see column 3 from line 8).

Claims 59 and 60 recite a computerized scheduling system for allowing patients to schedule their own appointments using the method of claims 53 and 54, and are similarly rejected for reasons given above, and that Glazier teaches or suggests the method implemented as a computerized system for self-scheduling of patient appointments (see column 2 from line 59).

7. Claims 49-51 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glazer et al (US Pat. 7,174,303) in view of Garcia (US Pat. 6,088,429) and further in view of Family Practice Management (articles: Sanford Brown,

"The Disgruntled Patient", June 1999 and Ron Aymond, "22 Tips for Improving Your Practice", Sept. 1999) as applied to claims 53 and 59 above, and further in view of Metro One Communications (WO 01/67731).

Metro One Communications teaches automated methods for scheduling services employing an electronic ticket representing a request for specific services and managing the status of the request using the electronic ticket.

Specifically, with respect to claims presented:

Claims 49-51

Glazier teaches an automated method of allowing patients to schedule appointments over a network; however, Glazier does not expressly teach *creating an electronic ticket identifying the patient and allowing the patient to schedule a medical appointment of a predetermined type of treatment where the ticket has a status of unused or completed.*

The concept of a virtual or electronic ticket as an implementation device is old and well known in the art of scheduling service requests, including associating the ticket with a client requiring services of a particular type and tracking the status of the ticket until fulfilled. Metro One Communications teaches an internet-enabled concierge service for providing services to clients, expressly teaching an electronic ticket-based implementation, where the ticket maintains client, scheduling, service-type, and fulfillment status until the requested service is scheduled and fulfilled. Metro One Communications is analogous art as it pertains to the online self-scheduling of services, and as in Glazier, teaches a data processing system allowing appointments to be

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cancelled and rescheduled (see Glazier column 4 from line 46). Analogously, Glazier teaches associating with the appointment special instructions for the type of patient service to be provided such as which particular piece of medical equipment is required for the patient's appointment (column 3 from line 43). That Glazier does not expressly teach details of the internal computer representation and data processing of the disclosed system as creating a virtual or electronic ticket that acts to track and to limit a patient to self-scheduling a medical visit or procedure of a given type, one of ordinary skill in the art would anticipate such internal representation and function in order to prevent a patient from scheduling an inappropriate procedure for his or her medical condition.

It would have been obvious to one of ordinary skill at the time of the invention to implement client information, treatment type, and scheduling status, including cancellation, rescheduling and fulfillment status, according to the inherent capabilities of Glazier to effect equivalent functions afforded by the "ticket" metaphor, as explained above, as this would have provided a readily available and easily communicated implementation strategy for the data representations and processing systems disclosed generally by Glazier meeting the purposes of the instant invention.

Claims 55-57 recite a computerized scheduling system for allowing patients to schedule their own appointments using the method of claims 49-51, and are similarly rejected for reasons given above, and that Glazier teaches or suggests the method implemented as a computerized system for self-scheduling of patient appointments (see column 2 from line 59).

8. Claims 52 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glazier et al (US Pat. 7,174,303) in view of Garcia (US Pat. 6,088,429) and further in view of Family Practice Management (articles: Sanford Brown, "The Disgruntled Patient", June 1999 and Ron Aymond, "22 Tips for Improving Your Practice", Sept. 1999) as applied to claims 53 and 59 above, and further in view of O'Connor et al (US Pat. Pub. 2001/0011225).

Claim 52

Glazier teaches an automated method of allowing patients to schedule appointments over a network; however, Glazier does not expressly teach *where if the first set of appointment times are not available, the patient is referred to a human intermediary for scheduling in a second set of appointment times.*

O'Conner discloses automated methods and an online self-scheduling system for scheduling appointments including patient scheduling for physician offices (§ [0003]) and including reserving blocks of appointment times separately available to online and local (off-line) patients (see § [0038]). Given Glazier's teaching of providing for human intervention in the off-line scheduling of patient appointments (see column 5 from line 28 and at line 50), it would have been obvious to one of ordinary skill at the time of the invention to limit online self-scheduling of appointments to a first set appointment times, reserving a second set of appointment times for local (off-line) scheduling, to achieve the "balance" in local to online time slots as described by O'Conner according to the flexible needs of the practice.

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Official notice is taken that in the practice of online systems whether for scheduling, reservation, or other online self-service, if satisfaction cannot be gained by the user by automated means, it is old and well known in the art to refer the user to a human operator.

Given Glazier's capability for human intervention in the off-line scheduling of patient appointments (see column 5 from line 28 and at line 50) in view of O'Conner, and taken together with the old and well known business practice of referring to a human operator as a backup to online systems, it would have been obvious to one of ordinary skill at the time of the invention to provide a first set of appointment times and a second set of appointment times, the first reserved for online self-schedulers, and if appointments are filled, referring the patient to a human operator for scheduling in a second set, as this would have provided the balance of appointment allocation to online and off-line schedulers, while still providing online schedulers recourse to schedule an appointment off-line if the allocated online appointment slots were filled, thereby improving patient service and ensuring quality of care for all patients regardless of their mode of scheduling.

Claim 58 recites a computerized scheduling system for allowing patients to schedule their own appointments using the method of claim 52, and is similarly rejected for reasons given above, and that Glazier teaches or suggests the method implemented as a computerized system for self-scheduling of patient appointments (see column 2 from line 59).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abbo, F. E. (US Pat. Pub. 2003/0195774) discloses a medical records database system and scheduling modules, managing multiple aspects of a medical practice, including receiving data on medical events such as office visits and telephone discussions, including a completed visit module (§ [0010]) and a the log module storing "information regarding missed appointments" § [0037]).

Andrews (US Pat. 6,678,613) teaches keeping a user's history of missed appointments to better adjust lead times on appointment scheduling to better enable future scheduling by giving users more lead time to reach the appointment (column 4 from line 47).

Bro (US Pat. 6,249,809) teaches a system for managing patient appointment reminders including providing no-shows with recorded reminders to re-schedule missed appointments (column 9, line 33).

Goldstein (US Pat. Pub. 2001/0021910) discloses automated scheduling for pre and post-operative care including scheduling consultations and tracking whether the patient failed to show up at the appointment, and resolving no-shows by calling the patient afterwards to further understand patient needs (§ [0078, 0082]; Figure 9).

Kasper et al (US Pat. 7,056,289) teaches automated methods for outpatient monitoring including determining if a patient has missed an appointment and if so

activating an automated Appointment module to determine the reason for the missed appointment (column 11, line 4 and from line 34).

Lingberg et al (US Pat. Pub. 2001/0039504) teaches online patient scheduling for home monitoring follow-up by physicians, including a scheduling interface customized by patient information including tracking of missed follow-up visits (§ [0110]).

Moczygemba (US Pat. Pub. 2002/0059082) discloses physician patient online scheduling, allowing doctors to block off available times (§ [0029]) and including incentives for scheduling patients online to avoid patients with minor health issues foregoing treatment resulting in more serious illness, including requiring prepayment as incentive to show for appointments (§ [0030]).

O'Connor (WO 00/73952 A1) discloses a user-driven online scheduling system for scheduling appointments for users with businesses such as physician appointments, including mitigation of missed appointments by scheduling reminders and reserving blocks of appointment times separately available to online and local (off-line) users. (This WIPO publication of 12/2000 is related to US 2001/0011225 and is cited as the closest *foreign* prior art to the claims presented.)

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is 571-272-8220. The examiner can normally be reached on 8:15am to 5:15pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/3/2007


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